

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 535 OF 2015
IN
NOTICE OF MOTION NO. 1397 OF 2015
IN
B.C.C.C.L.C.SUIT NO. 867 OF 2015

ALONGWITH
CIVIL APPLICATION NO. 676 OF 2015
IN
APPEAL FROM ORDER NO. 535 OF 2015
IN
NOTICE OF MOTION NO. 1397 OF 2015
IN
B.C.C.C.L.C.SUIT NO. 867 OF 2015

Irfan Yunus Namakwala

..... Appellant

VERSUS

**Municipal Corporation of Greater Mumbai
& Ors.**

..... Respondents

Mr.D.D.Madon, Senior Advocate, a/w. Mr.T.G.Vora, i/b. Mr.K.D.Jha for the Appellant.

Mr.Mohit Jadhav, a/w. Ms.M.R.Bhoir for the Respondent NO.1 BMC.

Mr.S.P.Thorat for Respondent No.2.

CORAM : R.D. DHANUKA, J.

DATED : 24th NOVEMBER, 2015

P.C.

This Appeal from Order is directed against the Order dated 2nd April, 2015 passed by the learned trial judge in the draft notice of motion filed by the appellant (original plaintiff) inter alia praying for interim relief in which the ad-interim relief is refused by the trial court.

2. By an order dated 8th April, 2015, passed by this court parties are directed to maintain status quo as on the date of the said order till the next date. The said interim order dated 8th April, 2015 is in force till today.

3. Mr.Madon, learned senior counsel appearing for the appellant states that he has no objection if the notice of motion filed by the appellant is heard expeditiously and states that his client will not seek any unnecessary adjournment before the learned trial court. Learned counsel appearing for the respondent supports the observations made by the learned trial court.

4. Learned counsel for the Municipal Corporation on the other hand supports the prima facie observations made by the learned trial judge and submits that this court shall not interfere with the impugned order passed by the learned trial judge. In the alternate submissions he submits that if this court comes to the conclusion that notice of motion can be heard expeditiously, his client will not ask for any unnecessary adjournment before the trial court. Statement is accepted.

5. In my view since this court has taken a prima facie view while passing the said ad-interim order dated 8th April, 2015 and has directed the parties to maintain status quo, which order is in force till today, it would be appropriate if the notice of motion filed by the appellant itself is heard expeditiously. The defendants in the suit are directed to file their affidavit in reply within two weeks from today and shall serve copy thereof upon the plaintiff's advocate simultaneously. Rejoinder if any, shall be filed within two weeks from the date of service of affidavit in reply and copy thereof shall be served upon defendants' advocate simultaneously. The trial court is directed to dispose of the notice of motion within four months from the date of completion of the pleadings without fail.

6. It is made clear that the observations made by the learned trial court in the impugned order as well as by this court while passing ad-interim order are tentative and the notice of motion thus shall be disposed of without being influenced by the observations made in the aforesaid orders. Appeal from order is disposed of in the aforesaid terms. Ad-interim order passed by this court on 8th April, 2015 to continue till disposal of the notice of motion by the trial court. In view of the disposal of the appeal from order, civil application does not survive and is accordingly disposed of. No order as to costs.

[R.D. DHANUKA, J.]